

December 20, 2023

Via ECF

Hon. Colleen McMahon
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007

Re: *Sierra/Wood v. City of New York*, 20 Civ. 10291

Your Honor,

Your Honor,

Along with Hamilton Clarke, LLP, Rickner PLLC, and Michael L. Spiegel, Esq., we represent the Plaintiffs in this case. We write with great disappointment to inform the Court that the New York City Comptroller's Office has not complied with the Court-approved class settlement order. Specifically, it has failed to timely pay the class representatives' \$21,500 service awards. Those payments were due, at the latest, by December 11, 2023.¹ Today, nine days after that deadline, the City has still not sent payment to four of the five class representatives. (The City has said that it mailed payment to Amali Sierra on December 16, but she has yet to receive it).

For the past two weeks, we have engaged extensively in good faith efforts to resolve this issue, including numerous emails and phone calls with the City's counsel seeking more information about the delay and requesting that we be able to pick up the checks directly from the Comptroller's Office to expedite getting them to our clients before Christmas, as was the intention in the schedule the parties agreed on and the Court so-ordered. Yesterday, after we informed the City that we planned to write to the Court if the checks were not available for pickup by Thursday (December 21), we were told that the checks were being printed and mailed. However, late today, we were told

¹ This Court granted final approval to the Class Settlement on October 25, 2023. ECF No. 189. That order required the City to pay each of the five class representatives a service award of \$21,500 *within 45 days of the Court's order*. *Id.* ¶ 18. Because the order was issued on October 25, the 45-day deadline landed on December 9, a Saturday. While Plaintiffs maintained that payments should have been made *by* December 9, the City's position was that it had until Monday, December 11.

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the checks would actually not be available for pickup until **December 28**, seventeen days after the court-ordered deadline.

The only explanation that the City's attorneys have given us for the delay in payments is that the signed release and affidavit of liens for one of the five plaintiffs was not delivered to the City until December 8. This explanation makes no sense. For one thing, the City, did not provide us with the paperwork for the class representatives until November 14, more than two weeks after the Court issued its final approval of the settlement and only after multiple requests from Plaintiffs' counsel. Nonetheless, Mr. Wood's paperwork was delivered three days later, on November 17, and the other plaintiffs' paperwork was delivered between November 23 and December 1. Nothing in the settlement agreement, the Court order, or common sense required the City to await receipt of releases from all of the class representatives to begin processing payment. Most importantly, the timing of the City's receipt of the class representatives' paperwork cannot explain the City's late payments, given that Amali Sierra's payment was mailed out four days ago, when Mr. Wood's payment still has not been made despite providing his required information to the City over a month ago. There is simply no reason *all* of the plaintiffs' settlement payments were delayed beyond on the Court-ordered deadline due to the timing of the City's receipt of one plaintiff's paperwork.

In a final effort to ensure our client receive their payments in time for Christmas, we are asking the Court to intervene. We propose that the Court order a representative from the Comptroller's Office appear in Your Honor's Courtroom on Friday, December 22, 2023, with cashier's checks for Samira Sierra, Ricardo Nigaglioni, Charles Henry Wood, and Alex Gutierrez, the four class representatives for whom payment has not yet been made.^{2[2]} Alternatively, the City could agree to wire the funds on Friday to any of the class representatives who can provide bank information by EOD Thursday. If the Comptroller's Office cannot deliver the checks, we ask the Court to order a representative from that Office to appear personally and explain the reason his office did not comply with the Court's Order. At the very least, we ask the Court to impose sanctions on the City for treating the Court-ordered deadline as a mere suggestion.

We thank the Court for its attention to this matter.

Respectfully submitted,



Alison Frick

² We ask for cashier's checks so the funds are available immediately and will not be delayed by the plaintiffs' banks when the checks are deposited.